

SECTION 9 - GENERAL REGULATIONS

The provisions of this Ordinance shall be subject to the following general regulations, special provisions, and exceptions.

- 9.1 **CONFORMITY REQUIRED** - Except as otherwise provided herein, land buildings and premises in any district shall hereafter be used only in accordance with the regulations herein established for that district.

No building shall hereafter be erected, constructed, relocated or structurally altered to have a greater height, proportion of coverage, or smaller yards, or open spaces about it than permissible under the limitations set forth herein for the district in which such building is located.

No yard, open space or off-street parking space, or loading space existing or hereafter provided for a building or use and necessary to meet or partially meet the requirements of this Ordinance shall be considered as all or part of the yard, open space, off-street parking space, or loading space required for any other building or upon any other lot; except as provided in Section 8.2.3 for the joint or collective use of parking space.

No lot existing at the effective date of this Ordinance shall be reduced in dimension or area in relation to any building thereon so as to be smaller than required by this Ordinance; and, if already less, the dimension or area of such lot shall not be further reduced.

- 9.2 **ANNEXED TERRITORY** - The City may pre-zone unincorporated territory adjoining the City for the purpose of determining the zoning that will apply to such property in the event of subsequent annexation to the City. The method of accomplishing such pre-zoning shall be as provided by Section 16 of this Ordinance for zoning within the City. Action to pre-zone may be by initiation of the Planning Commission, the City Council or by application of the owner of the property. Such zoning shall become effective at the same time that the annexation becomes effective.

If any land or territory is not pre-zoned as provided for herein, then that land or territory upon annexation to the City shall be shown on the zoning map to be an Agricultural District (A) and shall thereupon be subject to all zoning regulations applicable to said district.

- 9.3 **LOTS OF RECORD** - Any single lot or parcel of land, which was of record and a legal lot at the time of adoption of this Ordinance, but does not meet the requirements of the district in which it is located for minimum lot width and area, may be utilized for a Permitted Use, if all other requirements of this Ordinance are met; provided, however, that when two or more lots or parcels of land, each of which lacks area and/or dimension adequate to qualify for a Permitted Use under the requirements of the use district in which they are located are contiguous and are held in one ownership, they shall be used as one building site for such Permitted Use.
- 9.4 **ACCESS TO PUBLIC STREETS** - No building shall be constructed or erected upon any lot unless such lot abuts upon a public street, or upon a lot having a permanent access easement to a public street which was of record prior to the effective date of this Ordinance.

No lot shall be deemed to abut upon a street unless it has a frontage thereon of not less than 30 feet and a lot width of not less than 30 feet for a depth of 100 feet from the front lot line.

9.5 USES - EXCEPTION AND PROVISIONS

* 9.5.1 ADDITION TO THE LIST OF PERMITTED USES - OR CONDITIONAL USES

- (a) Initiation: An application for an addition to the list of Permitted Uses or Conditional Uses in any zoning district may be initiated by an owner of property within the zoning district in which the additional use is proposed who shall file a letter with the Zoning Administrator requesting such change, by the Commission in a resolution, or by the Council in the form of a request that the Commission consider the addition of a Permitted or Conditional Use.
- (b) Action by the Commission: In considering the addition of any use, initiated in accordance with Section 9.5.1(a) herein, the Commission shall hold a public hearing in the manner set forth in Sections 16.4.1 and 16.4.2 herein, and shall recommend approval or disapproval of such addition to the Council, provided that the Commission shall recommend approval only when it shall have found that the use proposed as an additional Permitted or Conditional Use:
 - 1) Will be in accord with the purposes of the district in which the use is proposed.
 - 2) Will have the same basic characteristics as the uses permitted in the district.
 - 3) Will not be detrimental to the public health, safety or welfare.
 - 4) Will not adversely affect the character of any district in which it is proposed to be permitted.
 - * 5) Will not create more vehicular traffic than the volume normally created by any of the uses permitted in the district.
 - 6) Will not create more odor, dust, dirt, smoke, noise, vibration, illumination, glare, unsightliness or any other objectionable influence than the amount normally created by any of the uses permitted in the district.
- (c) Action by the Council - The Council upon receipt of the recommendation of the Commission, shall hold a legally noticed public hearing and shall adopt an ordinance to add or shall decline to add the subject Permitted Use or Conditional Use.

* Amended by Ord. #366, 5/22/67

- (d) Addition to Ordinance - When a use has been added to a list of Permitted Uses or Conditional Uses in accordance with the procedure prescribed in this Section, the use shall be deemed to be listed as a Permitted Use or Conditional Use as the case may be in the appropriate section, and shall be added to the text of that section of this Ordinance when it is next published, with a notation of the date when the use was added to the list.

9.5.2 TEMPORARY USES - The Zoning Administrator may issue a zoning certificate, upon application, for lawful temporary uses of property as specified in this and the following Sections. Approval may be made contingent upon such conditions and time limitations as are reasonably necessary to secure the public welfare. The violation of any such condition shall be grounds for the revocation of the certificate and of any permit or license issued thereunder. The Zoning Administrator shall require guarantees to assure removal of the temporary use and of any debris or refuse resultant therefrom, so as to restore the premises to its prior condition and shall establish the date of such removal.

- (a) Tract and Sales Offices - A temporary zoning certificate may be issued upon application for a tract and sales office in an R District during the period of construction or sale of homes in a new subdivision, located either in a dwelling or in a temporary structure located not less than 20 feet from any other structure. Such office or temporary structure shall be removed and the entire premises shall be restored to conform to the district regulations within ten days after the expiration of the period of time specified in the certificate.

- (b) Uses Incidental to Construction - The Zoning Administrator may issue a zoning certificate for temporary buildings and uses incidental to the construction of a building or group of buildings on same or adjacent premises subject to the applicable provisions of this Ordinance.

- * (c) Non-profit Functions - A temporary zoning certificate, for a period not to exceed 15 days, may be issued for school, church, service club or other functions which are clearly of a non-profit or charitable nature provided the Zoning Administrator shall find the proposed use to be in conformance with the characteristics set forth in subsection "b" of Section 9.5.1.

- ** (d) Seasonal Holiday Sales Lots - A temporary zoning certificate may be issued for Christmas tree and Halloween pumpkin retail sales lots of a period not to exceed 40 days.

* Amended by Ord. #366, 5/22/67

** Amended by Ord. #366, 5/22/67 and Ord. #781, 12/8/87

9.5.3 ACCESSORY USES - An accessory use, as defined and as regulated herein, is permitted in any district where the principal use to which it is accessory is permitted.

9.5.4 ACCESSORY BUILDINGS - Accessory buildings as regulated herein are permitted in any district, if constructed either at the same time as the main building on the lot, or subsequently.

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(a) In any R District, nonhabitable one story detached accessory building (i.e. garages and storage sheds) may occupy part, but not more than 40 percent, of the required yard areas; provided however, that no detached accessory building shall be located in front of the main building. Detached accessory buildings which include habitable floor area, (including secondary dwelling units) shall not occupy the required yard areas.

9.6 NONCONFORMING USES AND STRUCTURES

9.6.1 CONTINUATION AND MAINTENANCE - A use lawfully occupying a structure or a site on the effective date of this Ordinance or of amendments thereto, which does not conform with the use regulations for the district in which the use is located, shall be deemed to be a nonconforming use and may be continued, except as otherwise provided in this Section.

A structure lawfully occupying a site on the effective date of this Ordinance or of amendments thereto which does not conform with the standards of coverage, front yard, side yards, rear yard, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located shall be deemed to be a nonconforming structure and may be used and maintained except as otherwise provided in this Section.

Routine maintenance and repairs may be performed on a structure or site, the use of which is nonconforming, and on a nonconforming structure.

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9.6.2 ALTERATIONS AND ADDITIONS TO NONCONFORMING USES - No structure, the use of which is nonconforming, shall be moved, altered or enlarged unless required by law, or unless the moving, alteration or enlargement will result in the elimination of the nonconforming use, or is essential to the improvement of the public health and safety as required by local, state, or federal statutes for the protection of the environment.

No structure partially occupied by a nonconforming use shall be moved, altered or enlarged in such a way as to permit the enlargement of the space occupied by the nonconforming use.

* Amended by Ord. #366, 5/22/67; and by Ord. #781, 12/8/87; and by Ord. 999, 5/27/04

** Amended by Ord. #722, 11/1/84

No nonconforming use shall be enlarged or extended in such a way as to occupy any part of the structure or site or another structure or site which it did not occupy on the effective date of this Ordinance or of the amendment thereto which caused it to become a nonconforming use, or in such a way as to displace any conforming use occupying a structure or site.

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9.6.3 ALTERATIONS AND ADDITIONS TO NON-CONFORMING STRUCTURES - No nonconforming structure shall be moved, altered, enlarged or reconstructed so as to increase the discrepancy between existing conditions and the standards of coverage, front yard, side yards, rear yard, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located. For purposes of this section, additions in an R-1A, R-1B, or R-1C District shall comply with applicable current setback and height requirements.

9.6.4 CHANGE OF USE, ABANDONMENT OF NONCONFORMING USE - A nonconforming use of a structure or site shall not be changed to another nonconforming use.

Whenever a nonconforming use has been abandoned, discontinued or changed to a conforming use for a continuous period of 90 days, the nonconforming use shall not be re-established, and the use of the structure or site thereafter shall be in conformity with the regulations for the district in which it is located.

9.6.5 RESTORATION OF A DAMAGED STRUCTURE - Whenever a structure, the use of which does not conform with the regulations for the district in which it is located, or a structure which does not comply with the standards of coverage, front yard, side yards, rear yard, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located, shall be destroyed by fire or other calamity to the extent of 50 percent or less, the structure may be restored and the nonconforming use may be resumed, provided that restoration is started within one year and diligently pursued to completion.

Whenever a structure, the use of which does not conform with the regulations for the district in which it is located, or a structure which does not comply with the standards of coverage, front yard, side yards, rear yard, height of structures or distances between structures prescribed in the regulations for the district in which it is located, shall be destroyed by fire or other calamity to a greater extent than 50 percent, or shall be voluntarily razed or shall be required by law to be razed, the structure shall not be restored except in full conformity with the regulations for the district in which it is located, and the nonconforming use shall not be resumed; provided, however, that:

- (a) Any residential structure which was constructed in conformance with the Code requirements relating to coverage, front, side and rear yard, height of structure and distance between structures in effect at the time the building

* Amended by Ord.#1028, 07/24/07;

permit for said structure was issued, and which is legal use at the time of adoption of this Ordinance may, if destroyed by fire or other calamity to a greater extent than 50 percent, be restored so as to conform to the standards of lot coverage, front, side and rear yard, height of structure and distance between structures maintained by said structure at the time of its destruction; provided further that such reconstruction shall be in accordance with all other provisions of this Code and applicable City Ordinances.

- (b) The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction, to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made or shall be reviewed and approved by the Zoning Administrator.

9.6.6 ELIMINATION OF NONCONFORMING USES - The following nonconforming uses shall be discontinued and removed from their sites within 3 years from the effective date of this Ordinance.

- (a) A nonconforming use which does not occupy a structure.
- (b) A nonconforming use occupying a structure having an assessed valuation of less than \$500.00.
- (c) A nonconforming sign, billboard or outdoor advertising structure, except an identification sign or signs with an aggregate area of not more than 36 square feet pertaining to use conducted on the site.
- (d) A nonconforming fence.

9.6.7 SCHEDULE FOR DISCONTINUANCE - Provided that a nonconforming use other than a use prescribed in paragraphs (a), (b), (c) and (d) of this Section shall be permitted to continue for not more than 20 years following the effective date of this Ordinance, all other non-conforming uses in all zoning districts, except multiple dwellings in the R-1 Residential Districts, one family residences in the R-2, R-3, R-4 and R-5 Multiple Dwelling Districts, and one family residences, lodging and multiple dwellings in the C-1 Neighborhood Shopping Districts, shall be discontinued and removed from their sites in accordance with the following schedule:

- (a) For a use occupying a structure defined in the Building Code of the City as Type I, 50 years from the date the structure originally was erected.
- (b) For a use occupying a structure defined in the Building Code of the City as Type II or Type III, 40 years from the date the structure originally was erected.

- (c) For a use occupying a structure defined in the Building Code of the City as Type IV or Type V, 35 years from the date the structure originally was erected.

9.6.8 ELIMINATION OF NONCONFORMING STRUCTURES - A structure having an assessed valuation of less than \$500.00 which does not comply with the standards of coverage, front yard, side yards, rear yard, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located shall be removed from its site within three years from the effective date of this Ordinance, except that if the structure is altered to comply with such standards, this provision shall not apply.

9.6.9 TIME WHEN USE OR STRUCTURE BECOMES NONCONFORMING - Whenever a use or a structure becomes nonconforming because of change of zoning district boundaries or a change of regulations for the district in which the site is located, the period of time prescribed in this Section for the elimination of the use or the removal of the structure shall be computed from the effective date of the change of district or regulations.

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9.6.10 NONCONFORMITY WITH DEVELOPMENT STANDARDS

- (a) Nonconforming landscaping - All uses, which do not meet the minimum provisions for landscaping as provided for in this code, shall bring the premises into conformity within two years of the effective date of this code.
- (b) Nonconformity with Masonry or Screening Walls - All uses which do not meet the minimum provisions for masonry or screen walls as provided for in this code shall bring the premises into conformity within two years of the effective date of this Ordinance.
- (c) Nonconforming Outdoor Storage - Existing uses involving outside storage not conforming to the provisions of this Ordinance shall, within two years, bring the premises into conformity.
- (d) Nonconforming Outdoor Displays - Outdoor displays which do not conform to this Ordinance but which lawfully existed on the effective date of this Section, shall within 90 days, be removed or made to conform.

9.7 YARD AND SETBACK REQUIREMENTS - EXCEPTIONS - Certain structures within and projections into required yard areas are permitted, as herein specified, and shall not be considered to be obstructions or included in the calculation of coverage, unless otherwise specified.

*Amended by Ord. #474, 6/28/71

9.7.1 PERMITTED IN ANY YARD

- (a) Cornices, canopies, eaves or other projections which do not increase the volume of space enclosed by the building; provided, however, that none of these shall project into any required yard more than 30 inches.
- * (b) Unroofed exterior stairs, landings and decks of open design required by law which do not extend above the ground floor entrance except for the railing. No such stairs, landings or decks shall project more than six (6) feet into the required front or rear yard, and in no case should they encroach into the side yard setback.
- (c) Repealed.
- (d) Chimney, not more than eight feet in width and projecting not more than 24 inches.
- (e) Flagpole, garden ornament.
- (f) Fences, walls or lattice-work screens having a height of not more than six feet above any portion of the adjoining ground level, provided that no such fence, wall lattice-work screen or any hedge shall exceed three and one half feet in height when located in any front setback area within 40 feet of a street intersection.

9.7.2 PERMITTED IN FRONT AND REAR YARDS

- (a) One story bay windows projecting not more than three feet into the yard.
- (b) Unroofed balcony, provided that no such balcony shall project into any required front yard nor more than four feet into a rear yard.

9.7.3 YARD REQUIREMENTS - ACCESSORY USES

- (a) In any R Districts non-required accessory uses not requiring a building permit may occupy any yard area.
- ** (b) Nonhabitable accessory buildings (i.e. garages and storage sheds) may occupy part of the yard area subject to the limitations contained herein; and shall be included in the calculation of lot coverage.
- *** (c) A distance of not less than five (5) feet shall be maintained between any accessory building and the main building on a lot or parcel.

*Amended by Ord. #623, 4/24/78

** Amended by Ord. #999, 5/27/04

*** Amended by Ord. #366, 5/22/67

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- (d) In any C District, all storage shall be enclosed by solid walls or fence, including solid door or gates thereto, at least six (6) feet high, but in no case lower in height than the enclosed storage. Said storage areas may be open to the sky; however, open off-street load facilities and open off-street parking facilities for the parking of motor vehicles may be unenclosed throughout the District except for such screening of parking and loading facilities as may be required under the provisions of Section 8 herein. Storage is defined as:

(STORAGE - OUTDOOR) - The maintenance, depository or warehousing of any material, including but not limited to refuse, containers, machinery or other similar goods, for more than seven (7) consecutive days in an area outside of a building.

9.7.4 FRONT SETBACK - EXCEPTIONS - In any R District the minimum required depth of front yard shall be subject to the following modifications:

- (a) Where lots comprising 50 percent or more of all frontage on the same side of the street and within the same block are developed with buildings having front yards within a variation of not more than ten feet in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage on that side of such street within the same block; but in no case shall such front yard be reduced to less than 15 feet nor shall a front yard of more than 30 feet be required; provided, however, that in establishing the front setback for a lot or parcel whereof the applicable frontage within the same block extends for a distance in excess of 400 feet on either side of such lot or parcel, only those properties in said block within 400 feet of such lot shall be included in the averaging of such front yards to establish the minimum front yard depth for said lot.
- (b) Wherever a building setback line in any block is delineated on the subdivision map thereof, as approved by the Council, and recorded in the office of the County Recorder, and such setback is greater distance than the minimum setback provided for herein, the setback shown on such subdivision map shall govern.

9.7.5 TRANSITIONAL YARDS - C AND M DISTRICTS - Wherever a C or M District adjoins an R District, transitional yards shall be provided in accordance with the following regulations:

- (a) When lots in any C or M District front on a street and at least 80 percent of the frontage directly across the street between the two consecutive intersection streets is in an R District, a 15 foot front yard shall be maintained on the lots in the C or M District.

* Amended by Ord. #577, 8/9/76

- (b) In a C or M District where a side lot line coincides with a side or rear lot line of property in an adjacent R District, a yard shall be provided along such side lot line, such yard shall be equal in dimension to the minimum side yard which would be required under this Ordinance for the R use permitted on the adjacent property.
- (c) In a C or M District, where a rear lot line coincides with a side lot line of property in an adjacent R District, a yard shall be provided along such rear lot line. Such yard shall be equal in dimension to the minimum side yard, which would be required under the R use permitted on the adjacent property.
- (d) In a C or M District, where a rear lot line coincides with a rear lot line of property in an adjacent R District, a yard shall be provided along such rear lot line. Such yard shall be not less than ten feet in depth.
- (e) In a C or M District, where the extension of a front or side lot line coincides with the front lot line of an adjacent lot located in an R District, a yard equal in depth to the minimum front yard required by this Ordinance on such adjacent lot in the R District shall be provided along such front or side lot line for a distance of at least 50 feet, including the width of an intervening alley, from such lot in the R District.
- (f) All required yards shall be unobstructed from the ground to the sky except as allowed in Section 9.7.

9.8 ZONING RIGHTS-OF-WAY - All streets, alley, railroad rights-of-way, waterways and other public ways, if not otherwise specifically designated, shall be deemed to be in the same zoning district as the property immediately abutting upon such alley, streets, public ways, waterways and railroad rights-of-way.

9.9 MOST RESTRICTIVE REGULATIONS GOVERN - Wherever the regulations made under the authority of this Ordinance require a greater width or size yards or courts, are more restrictive as to the height of buildings or permit a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose standards which are more restrictive than are required by any other City Ordinance or regulations, the provisions of any other City Ordinance or regulations require a greater width or size of yards or courts, or are more restrictive as to the height of building or permit of a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other standards which are more restrictive than are required by the regulations contained herein, the provisions of such Ordinance or regulation shall govern.

9.9.1 PUBLIC SERVICES EXEMPTED - This Ordinance shall not limit or interfere with the temporary use of any property as a public voting place, or with the construction, installation or operation of the following by any public agency or private corporation, when such construction is otherwise in conformity with all Federal, State, County and City regulations:

- (a) Public street or highway.

City of Belmont Zoning Ordinance

- (b) Poles, towers, wires, cables, conduits, vaults, laterals, pipes, mains, valves or any other similar distributing and transmitting equipment for telephone or other communications, electric power, gas, water and sewer lines provided that the installation shall conform when applicable with the rules and regulations of any Federal or State Commissions and Agencies, or any other authorities having jurisdiction and subject to other City Ordinances, provisions, rules and regulations.
- (c) Railroad right-of-way, excluding yards and stations.
- (d) Incidental appurtenances to any of the above.

9.9.2 COMMISSION REPORTS - The regular Minutes of the Planning Commission shall constitute a written report on any Commission action included in such Minutes.

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9.9.3 GEOLOGIC HAZARDS - Any action taken under this ordinance shall conform to requirements for geotechnical and geologic investigations as set forth in Section 7-12 (a-d) of the City Code. In the event of conflicting statements regarding permissible uses, Section 7-12(d) shall govern.

* Amended by Ord. #796, 6/21/88